Exhibit Z 21



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# Treasury's bailout proposal

## The legislative proposal was sent by the White House overnight to lawmakers.



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NEW YORK (CNNMoney.com) -- Here's the text of the legislative proposal sent by the White House overnight to lawmakers:

LEGISLATIVE PROPOSAL FOR TREASURY AUTHORITY TO PURCHASE MORTGAGE-RELATED ASSETS

Section 1. Short Title.

This Act may be cited as ____________________.

Sec. 2. Purchases of Mortgage-Related Assets.

(a) Authority to Purchase.--The Secretary is authorized to purchase, and to make and fund commitments to purchase, on such terms and conditions as determined by the Secretary, mortgage-related assets from any financial institution having its headquarters in the United States.

(b) Necessary Actions.--The Secretary is authorized to take such actions as the Secretary deems necessary to carry out the authorities in this Act, including, without limitation:

(1) appointing such employees as may be required to carry out the authorities in this Act and defining their duties;

(2) entering into contracts, including contracts for services authorized by section 3109 of title 5, United States Code, without regard to any other provision of law regarding public contracts;

(3) designating financial institutions as financial agents of the Government, and they shall perform all such reasonable duties related to this Act as financial agents of the Government as may be required of them;

(4) establishing vehicles that are authorized, subject to supervision by the Secretary, to purchase mortgage-related assets and issue obligations; and

(5) issuing such regulations and other guidance as may be necessary or appropriate to define terms or carry out the authorities of this Act.

Sec. 3. Considerations.

In exercising the authorities granted in this Act, the Secretary shall take into consideration means for--

(1) providing stability or preventing disruption to the financial markets or banking system; and

(2) protecting the taxpayer.

Sec. 4. Reports to Congress.

Within three months of the first exercise of the authority granted in section 2(a), and semiannually thereafter, the Secretary shall report to the Committees on the Budget, Financial Services, and Ways and Means of the House of Representatives and the Committees on the Budget, Finance, and Banking, Housing, and Urban Affairs of the Senate with respect to the authorities exercised under this Act and the considerations required by section 3.

Sec. 5. Rights; Management; Sale of Mortgage-Related Assets.

(a) Exercise of Rights.--The Secretary may, at any time, exercise any rights received in connection with mortgage-related assets purchased under this Act.

(b) Management of Mortgage-Related Assets.--The Secretary shall have authority to manage mortgage-related assets purchased under this Act, including revenues and portfolio risks therefrom.

(c) Sale of Mortgage-Related Assets.--The Secretary may, at any time, upon terms and conditions and at prices determined by the Secretary, sell, or enter into securities loans, repurchase transactions or other financial transactions in regard to, any mortgage-related asset purchased under this Act.

(d) Application of Sunset to Mortgage-Related Assets.--The authority of the Secretary to hold any mortgage-related asset purchased under this Act before the termination date in section 9, or to purchase or fund the purchase of a mortgage-related asset under a commitment entered into before the termination date in section 9, is not subject to the provisions of section 9.

Sec. 6. Maximum Amount of Authorized Purchases.

The Secretary's authority to purchase mortgage-related assets under this Act shall be limited to $700,000,000,000 outstanding at any one time

Sec. 7. Funding.

For the purpose of the authorities granted in this Act, and for the costs of administering those authorities, the Secretary may use the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under chapter 31 of title 31, United States Code, are extended to include actions authorized by this Act, including the payment of administrative expenses. Any funds expended for actions authorized by this Act, including the payment of administrative expenses, shall be deemed appropriated at the time of such expenditure.

Sec. 8. Review.

Decisions by the Secretary pursuant to the authority of this Act are non-reviewable and committed to agency discretion, and may not be reviewed by any court of law or any administrative agency.

Sec. 9. Termination of Authority.

The authorities under this Act, with the exception of authorities granted in sections 2(b)(5), 5 and 7, shall terminate two years from the date of enactment of this Act.

Sec. 10. Increase in Statutory Limit on the Public Debt.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof $11,315,000,000,000.

Sec. 11. Credit Reform.

The costs of purchases of mortgage-related assets made under section 2(a) of this Act shall be determined as provided under the Federal Credit Reform Act of 1990, as applicable.

Sec. 12. Definitions.

For purposes of this section, the following definitions shall apply:

(1) Mortgage-Related Assets.--The term "mortgage-related assets" means residential or commercial mortgages and any securities, obligations, or other instruments that are based on or related to such mortgages, that in each case was originated or issued on or before September 17, 2008.

(2) Secretary.--The term "Secretary" means the Secretary of the Treasury.

(3) United States.--The term "United States" means the States, territories, and possessions of the United States and the District of Columbia. ■

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Exhibit Z22

The New York Times



July 22, 2009

# Obama Auto Adviser Tells Lawmakers Not to Undo Dealer Closings

By NICK BUNKLEY

The leader of President Obama's automotive task force warned members of Congress on Tuesday that reversing or stopping the closing of thousands of General Motors and Chrysler dealerships could threaten the automakers' turnarounds and keep them from repaying billions in government loans.

The official, Ron Bloom, also said the government no longer needed to guarantee the warranties on G.M. and Chrysler vehicles, now that the companies had emerged from bankruptcy protection. Mr. Bloom said the $641 million given to the guarantee program had been repaid, with interest. No claims were made under the program.

Chrysler is eliminating 789 dealerships, while G.M. is cutting nearly 2,000. The House recently approved a bill that would reverse those closings.

Reopening dealerships would raise "enormous legal concerns, to say nothing of the substantial financial burden it would place on the companies," Mr. Bloom told the House Judiciary Committee.

But committee members expressed outrage that profitable and longstanding dealerships in their districts had been eliminated. Mr. Bloom insisted that the government, despite having a stake in the new Chrysler and G.M., had played no role in choosing which dealerships should stay open. He rejected claims that minority dealers had been affected disproportionately or that a dealer's political leanings had been considered.

"There's been very little transparency into how these closings were done," said Representative Dan Maffei, Democrat of New York, who has introduced a bill to prevent dealer cuts. "We don't want a bailout for the auto industry to become a washout for the auto dealerships."

Representative Henry C. Johnson Jr., Democrat of Georgia, who called the closings "mindless" and "devastating," said he feared that the cuts were an indication that anyone who had contributed to the automakers' past success was now expendable.

Import brands, like Toyota and Honda, have many fewer dealers relative to the number of vehicles they sell than G.M. and Chrysler.

Mr. Bloom said the dealer cuts were "a critical part of positioning" G.M. and Chrysler "for future success," but he declined to say whether they could recover and become profitable without eliminating so many dealers.

The cuts represent about a quarter of Chrysler's dealers and 40 percent of G.M.'s.

The Chrysler dealerships slated for elimination closed on June 9, and Chrysler is nearly done redistributing their inventory. G.M. dealers being cut have until October 2010 to wind down operations, but some already have closed, and they are not receiving new inventory.

"If Congress reverses this process, it flies in the face of a U.S. vehicle market that has declined 40 percent since 2007," Peter Grady, Chrysler's vice president for network development and fleet, said in a statement.

But that explanation does not help dealers who were cut, many of whom were overseeing decades-old family businesses and some of whom filed for personal bankruptcy protection after being terminated.

Representative Darrell Issa, Republican of California, said G.M. and Chrysler should have forgiven the debts of rejected dealers, who had made considerable investments based on the expectation that the companies would honor their franchise agreements.

"This is not like Chrysler and G.M. were renting facilities," he said.

Exhibit Z23

# Emergency Economic Stabilization Act of 2008

From Wikipedia, the free encyclopedia

The **Emergency Economic Stabilization Act of 2008**, commonly referred to as a **bailout of the U.S. financial system**, is a law enacted in response to the subprime mortgage crisis authorizing the United States Secretary of the Treasury to spend up to US$700 billion to purchase distressed assets, especially mortgage-backed securities, and make capital injections into banks.[1][2] Both foreign and domestic banks are included in the bailout. The Federal Reserve also extended help to American Express, whose bank-holding application it recently approved.[3] The Act was proposed by Treasury Secretary Henry Paulson during the global financial crisis of 2008.

The original proposal was three pages, as submitted to the United States House of Representatives. The purpose of the plan was to purchase bad assets, reduce uncertainty regarding the worth of the remaining assets, and restore confidence in the credit markets. The text of the proposed law was expanded to 110 pages and was put forward as an amendment to H.R. 3997.[4] The amendment was rejected via a vote of the House of Representatives on September 29, 2008, by a margin of 228-205.[5]

On October 1, 2008, the Senate debated and voted on an amendment to H.R. 1424, which substituted a newly revised version of the Emergency Economic Stabilization Act of 2008 for the language of H.R. 1424.[6][7] The Senate accepted the amendment and passed the entire amended bill by a vote of 74-25.[8] Additional unrelated provisions added an estimated $150 billion to the cost of the package and increased the size of the bill to 451 pages.[9][10] *See* Public Law 110-343 for details on the added provisions. The amended version of H.R. 1424 was sent to the House for consideration, and on October 3, the House voted 263-171 to enact the bill into law.[6][11][12] President Bush signed the bill into law within hours of its enactment, creating a $700 billion Troubled Assets Relief Program to purchase failing bank assets.[13]

Supporters of the bailout plan argued that the market intervention called for by the plan was vital to prevent further erosion of confidence in the U.S. credit markets and that failure to act could lead to an economic depression. Opponents objected to the massive cost of the sudden plan, pointing to polls that showed little support among the public for bailing out Wall Street investment banks,[14] and claimed that better alternatives were not considered[15] and that the Senate only tried to force the passage of the unpopular but sweetened version of the bailout through the opposing House and was successful in this attempt.[16][17]

Some opponents of the rescue plan—especially conservative commentators influenced by Euro-Pacific Capital CEO Peter Schiff[18] -- argue that since the problems of the American economy were created by excess credit and debt, a massive infusion of credit and debt into the economy only exacerbates the problems.[19] Schiff's argument is opposed by many supporters of the program.[20][21]

## Contents

United States Department of the Treasury

# Economic background

The subprime mortgage crisis reached a critical stage during September 2008, characterized by severely contracted liquidity in the global credit markets[22] and insolvency threats to investment banks and other institutions. In response, the U.S. government announced a series of comprehensive steps to address the problems, following a series of "one-off" or "case-by-case" decisions to intervene or not, such as the $85 billion liquidity facility for American International Group on September 16, the federal takeover of Fannie Mae and Freddie Mac, and the bankruptcy of Lehman Brothers.

On Monday, October 6, the DOW Jones industrials dropped more than 700 points and fell below 10,000 for the first time in four years.[23] The same day, CNN reported these worldwide stock market events:[24]

- Britain's FTSE 100 Index was down 7.9%
- Germany's DAX down 7.1%
- France's CAC 40 dropping 9%
- In Russia, trading in shares was suspended after the RTS stock index fell more than 20%.
- Iceland halted trading in six bank stocks while the government drafted a crisis plan.

# Paulson proposal

U.S. Treasury Secretary Henry Paulson proposed a plan under which the U.S. Treasury would acquire up to $700 billion worth of mortgage-backed securities.[25] The plan was immediately backed by President George W. Bush and negotiations began with leaders in the U.S. Congress to draft appropriate legislation.

President Bush meets with Congressional members, including presidential candidates John McCain and Barack Obama, at the White House to discuss the bailout, September 25, 2008.[26]

Consultations among Treasury Secretary Henry Paulson, Chairman of the Federal Reserve Ben Bernanke, U.S. Securities and Exchange Commission chairman Christopher Cox, congressional leaders, and President George W. Bush, moved forward efforts to draft a proposal for a comprehensive solution to the problems created by illiquid assets. News of the coming plan resulted in some stock, bond, and currency markets stability on September 19, 2008.[27][28]

The proposal called for the federal government to buy up to US$700 billion of illiquid mortgage-backed securities with the intent to increase the liquidity of the secondary mortgage markets and reduce potential losses encountered by financial institutions owning the securities. The draft proposal was received favorably by investors in the stock market, but caused the U.S. dollar to fall against gold, the Euro, and petroleum. The plan was not immediately approved by

Congress; debate and amendments were seen as likely before the plan was to receive legislative enactment.[29][30][31]

Throughout the week of September 20, 2008 there was in fact contentious wrangling among members of Congress over the terms and scope of the bailout,[32] amplified by continued failures of institutions like Washington Mutual, and the upcoming November 4 national election.

- On September 21, Paulson announced that the original proposal, which would have excluded foreign banks, had been revised to include foreign financial institutions with a presence in the United States. The U.S. administration pressured other countries to set up similar bailout plans.[33]
- On September 23, the plan was presented by Henry Paulson and Ben Bernanke to the Senate Banking Committee who rejected it as unacceptable.[34]
- On September 24, President Bush addressed the nation on prime time television, describing how serious the financial crisis could become if action was not taken promptly by Congress.[35]
- Also on September 24, 2008 Republican Party nominee for President, John McCain, and 2008 Democratic Party nominee for President, Barack Obama, issued a joint statement describing their shared view that "The effort to protect the American economy must not fail."[36]

The plan was introduced on September 20 by U.S. Treasury Secretary Henry Paulson. Named the **Troubled Asset Relief Program**,[25] but also known as the **Paulson Proposal** or **Paulson Plan**, it should not be confused with Paulson's earlier 212-page plan, the *Blueprint for a Modernized Financial Regulatory Reform*,[37] which was released on March 31, 2008.

The proposal was only three pages long, intentionally short on details to facilitate quick passage by Congress.[38]

## Mortgage asset purchases

A key part of the proposal is the federal government's plan to buy up to US$700 billion of illiquid mortgage backed securities (MBS) with the intent to increase the liquidity of the secondary mortgage markets and reduce potential losses encountered by financial institutions owning the securities. The draft proposal of the plan was received favorably by investors in the stock market.[29][30]

This plan can be described as a risky investment, as opposed to an expense. The MBS within the scope of the purchase program have rights to the cash flows from the underlying mortgages. As such, the initial outflow of government funds to purchase the MBS would be offset by ongoing cash inflows represented by the monthly mortgage payments. Further, the government eventually may be able to sell the assets, though whether at a gain or loss will remain to be seen. While incremental borrowing to obtain the funds necessary to purchase the MBS may add to the United States public debt, the net effect will be considerably less as the incremental debt will be offset to a large extent by the MBS assets.[39][40]

A key challenge would be valuing the purchase price of the MBS, which is a complex exercise subject to a multitude of variables related to the housing market and the credit quality of the underlying mortgages.[41] The ability of the government to offset the purchase price (through mortgage collections over the long-run) depends on the valuation assigned to the MBS at the time of purchase. For example, Merrill Lynch wrote down the value of its MBS to approximately 22 cents on the dollar in Q2 2008.[42] Whether the government is ultimately able to resell the assets above the purchase price or will continue to merely collect the mortgage payments is an open item.

On February 10, 2009, the newly confirmed Secretary of the Treasury Timothy Geithner outlined his plan to use the $300 billion or so dollars remaining in the TARP funds. He mentioned that the U.S. Treasury and Federal Reserve wanted to help fund private investors to buy toxic assets from banks, but few details have yet been released.[43] Yet, there is still some skepticism if Taxpayers can buy troubled assets without having to overpay. Oppenheimer & Company analyst Meridith Whitney argues that banks will not sell bad assets at fair market values because they are reluctant to take asset write downs.[44] Removing toxic assets would also reduce the volatility of banks' stock prices. Because stock is a call option on a firm's assets, this lost volatility will hurt the stock price of distressed banks. Therefore, such banks will only sell toxic assets at above market prices.[45]

On April 6, 2008 the State Foreclosure Prevention Working Group reported that the pace of foreclosures exceeded the capacity of homeowner rescue programs, such as the Hope Now Alliance, in the first quarter of 2008,[46] in part because a myriad of investors and complex MBS contracts must be consulted as part of the refinancing process.

### Sweeping powers

The original plan would have granted the **Secretary of the Treasury** unlimited power to spend,[32] proofing his or her actions against congressional or judicial review. Section 8 of the Paulson proposal states: "Decisions by the Secretary pursuant to the authority of this Act are non-reviewable and committed to agency discretion, and may not be reviewed by any court of law or any administrative agency."[25] This provision was not included in the final version.

### Potential effects

The maximum cost of a $700 billion bailout would be $2,295 estimated cost per American (based on an estimate of 305 million Americans), or $4,635 per working American (based on an estimate of 151 million in the work force).[47] The bulk of this money would be spent to purchase mortgage backed securities, ultimately backed by American homeowners, which possibly could be sold later at a profit, by the government. Economist Michael Hudson predicts that the bailout would cause hyperinflation and dollar collapse.[48][49][50] However, there is no persuasive evidence of prices rising and the U.S. Dollar Index has actually risen to higher levels than before the plan's announcement.[51] Indeed, during the week before and after the EESA was agreed, investment bank UBS was continually flatly rejecting that bailouts such as these were inflationary, emphasizing instead that they were anti-deflationary, not inflationary.[52][53][54]

The 2008 federal budget submitted by the president is $2,900 billion, meaning a $700 billion bailout would constitute a 24% increase to $3,600 billion, which would in fact far exceed the $3.1 trillion 2009 budget. The total government commitment and proposed commitments so far in its current and proposed bailouts is reportedly $1 trillion compared to the $14 trillion United States economy.[55]

## Rationale for the bailout

### Government officials

In his testimony before the U.S. Senate, Treasury Secretary Henry Paulson summarized the rationale for

the bailout:[56]

- **Stabilize the economy:** "We must... avoid a continuing series of financial institution failures and frozen credit markets that threaten American families' financial well-being, the viability of businesses both small and large, and the very health of our economy."
- **Improve liquidity:** "These bad loans have created a chain reaction and last week our credit markets froze – even some Main Street non-financial companies had trouble financing their normal business operations. If that situation were to persist, it would threaten all parts of our economy."
- **Comprehensive strategy:** "We must now take further, decisive action to fundamentally and comprehensively address the root cause of this turmoil. And that root cause is the housing correction which has resulted in illiquid mortgage-related assets that are choking off the flow of credit which is so vitally important to our economy. We must address this underlying problem, and restore confidence in our financial markets and financial institutions so they can perform their mission of supporting future prosperity and growth."
- **Immediate and significant:** "This troubled asset relief program has to be properly designed for immediate implementation and be sufficiently large to have maximum impact and restore market confidence. It must also protect the taxpayer to the maximum extent possible, and include provisions that ensure transparency and oversight while also ensuring the program can be implemented quickly and run effectively."
- **Broad impact:** "This troubled asset purchase program on its own is the single most effective thing we can do to help homeowners, the American people and stimulate our economy."

In his testimony before the U.S. Senate on September 23, 2008, Fed Chairman Ben Bernanke also summarized the rationale for the bailout:[57]

- **Investor confidence:** "Among the firms under the greatest pressure were Fannie Mae and Freddie Mac, Lehman Brothers, and, more recently, American International Group (AIG). As investors lost confidence in them, these companies saw their access to liquidity and capital markets increasingly impaired and their stock prices drop sharply." He also stated: "Purchasing impaired assets will create liquidity and promote price discovery in the markets for these assets, while reducing investor uncertainty about the current value and prospects of financial institutions. More generally, removing these assets from institutions' balance sheets will help to restore confidence in our financial markets and enable banks and other institutions to raise capital and to expand credit to support economic growth."
- **Impact on Economy and GDP:** "Extraordinarily turbulent conditions in global financial markets... these conditions caused equity prices to fall sharply, the cost of short-term credit—where available—to spike upward, and liquidity to dry up in many markets. Losses at a large money market mutual fund sparked extensive withdrawals from a number of such funds. A marked increase in the demand for safe assets—a flight to quality—sent the yield on Treasury bills down to a few hundredths of a percent. By further reducing asset values and potentially restricting the flow of credit to households and businesses, these developments pose a direct threat to economic growth."

Regarding the $700 billion number, *Forbes.com* quoted a Treasury spokeswoman: "It's not based on any particular data point. We just wanted to choose a really large number."[58]

## Journalists

According to CNBC commentator Jim Cramer, large corporations and institutions are pulling their

money out of bank money market funds, in favor of government-backed Treasury bills. This move is slowly taking away the capital reserves the banks have grown to depend on. Cramer called it "an invisible run on the banks," one that has no lines in the lobby but pushes banks to the breaking point nonetheless. Bank runs are taking place under the radar, he said. Chief financial officers, lawyers, the wealthy – they're all pulling their money from savings accounts and asking for T-bills. As a bank's deposits evaporate, so too does its ability to lend and correspondingly make money. This will continue until Congress agrees on a bailout deal. "The lack of confidence inspired by Lehman's demise, the general poor health of many banks, this is going to turn this into an intractable moment," Cramer said, "if someone in the government doesn't start pushing for more deposit insurance."[59]

# Reaction to the initial proposal

Skepticism regarding the plan occurred early on in the House. Many members of Congress, including the House of Representatives, did not support the plan initially, mainly conservative free-market Republicans and liberal anti-corporate Democrats.[60] Alabama Republican Spencer Bachus has called the proposal "a gun to our head"[61] fear-inflicting policy of the administration to stifle proper debate and affect decision.[32] However, many sources have reported that for this crisis there are many alternatives and options,[62] and other less risky and more profitable solutions to use the taxpayers' funds that aren't being debated, but ought to be debated, in the rush to the sudden deal.

## Immediate market reactions

On September 19, 2008, when news of the bailout proposal emerged, the U.S. stock markets surged by approximately 3%. Foreign stock markets also surged, and foreign currencies corrected slightly, after having dropped earlier in the month. The value of the U.S. dollar dropped compared to other world currencies after the plan was announced.[63][64] The front end oil futures contract spiked more than $25 a barrel during the day Monday September 22, ending the day up over $16. This was a record for the biggest one-day gain.[65] However, there are other factors that caused the massive spike in oil prices. Traders who got "caught" at the end of the October contract session were forced to purchase oil in large batches to cover themselves, adding to the surge in prices.[66] Further out, oil futures contracts rose by about $5 per barrel. Mortgage rates increased following the news of the bailout plan. The 30-year fixed-rate mortgage averaged 5.78% in the week before the plan was announced; for the week ending September 25, the average rate was 6.09%,[67] still far below the average rate during the early 1990s recession, when it topped 9.0%.[68]

## Potential conflict of interest

There was concern that the current plan created a conflict of interest for Paulson. Paulson was a former CEO of Goldman Sachs, which stood to benefit from the bailout. Paulson has hired Goldman executives as advisors and Paulson's former advisors have joined banks that were also to benefit from the bailout. Furthermore, the original proposal exempted Paulson from judicial oversight. Thus there was concern that former illegal activity by a financial institution or its executives might be hidden.[69][70][71]

The treasury staff member responsible for administering the bailout funds is Neel Kashkari, a former vice-president at Goldman Sachs.

## Views from the public, politicians, financiers, economists, and journalists

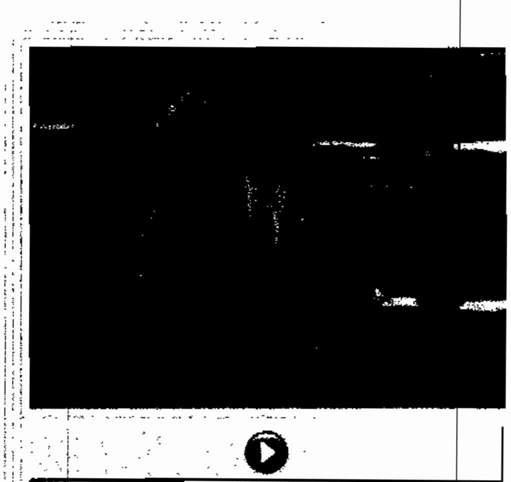
The public

Protests opposing the bailout occurred in over 100 cities across the United States on Thursday September 25.[72] Grassroots group TrueMajority said its members organized over 251 events in more than 41 states.[73] The largest gathering has been in New York City, where more than 1,000 protesters gathered near the New York Stock Exchange along with labor union members organized by New York Central Labor Council.[74][75] Other grassroots groups have planned rallies to protest against the bailout,[76] while outraged citizens continue to express their opposition online through blogs and dedicated web sites.[77]

- In a survey conducted September 19-22 by the Pew Research Center, by a margin of 57 percent to 30 percent, Americans supported the bailout when asked "As you may know, the government is potentially investing billions to try and keep financial institutions and markets secure. Do you think this is the right thing or the wrong thing for the government to be doing?"[78]
- In a survey conducted September 19-22 by Bloomberg/Los Angeles Times, by a margin of 55 percent to 31 percent, Americans opposed the bailout when asked whether "the government should use taxpayers' dollars to rescue ailing private financial firms whose collapse could have adverse effects on the economy and market, or is it not the government's responsibility to bail out private companies with taxpayers' dollars?".[79][80]
- In a survey conducted September 24 by USA Today/Gallup, when asked "As you may know, the Bush administration has proposed a plan that would allow the Treasury Department to buy and re-sell up to $700 billion of distressed assets from financial companies. What would you like to see Congress do?", 56 percent of respondents wanted Congress to pass a plan different from the original Paulson proposal, 22 percent supported the Paulson proposal in its initial form, and 11 percent wanted Congress to take no action.[81]
- Senator Sherrod Brown said he had been getting 2,000 e-mail messages and telephone calls a day, roughly 95 percent opposed.[82]
- As of Thursday September 25, Senator Dianne Feinstein's (D-Calif.) offices had received a total of 39,180 e-mails, calls and letters on the bailout, with the overwhelming majority of constituents against it.[75]

Politicians

- British Prime Minister Gordon Brown supported the plan, saying that it was essential to restore stability to the markets.[83]
- The then presidential candidates from both major parties, Senators Barack Obama (D) and John McCain (R) voted in favor of the Senate version of the bill on October 1, 2008. Senator Barack Obama pledged to telephone wavering House of Representatives members to urge them to support the legislation.
- "This plan is stunning in its scope and lack of detail," said Connecticut Senator Christopher Dodd, chairman of the Senate Banking Committee. "It does nothing in my view to help a single family save a home."[84]
- "I am concerned that Treasury's proposal is neither workable nor comprehensive, despite its enormous



President (then Senator)Barack Obama addresses the Senate on the financial crisis and argues in favor of the bailout bill. View clip on commons. "Barack

price tag," said Alabama Senator Richard Shelby, the ranking Republican on the committee.[85]

- "The Paulson plan will not bring a stop to the slide in home prices. But the Paulson plan will spend 700 billion taxpayer dollars to prop up and clean up the balance sheets of Wall Street. This massive bailout is not a solution. It is financial socialism and it's un-American," said Sen. Jim Bunning, R-Ky.[86][87]

Obama support of Bailout (http://metavid.org/wiki/Stream:Senate_proceeding_10-01-08_00/2:38:38/2:53:07)". http://metavid.org/wiki/Stream:Senate_proceeding_10-01-08_00/2:38:38/2:53:07. Retrieved on 2008-10-16.

- Then Democratic presidential candidate Barack Obama said any bailout must include plans to recover the money, and protect working families and big financial institutions and be crafted to prevent such a crisis from happening again.[88]
- Texas Republican U.S. Representative and former two-time presidential candidate Ron Paul publicly opposes any bailout and calls for further reforms to remedy the crisis.[89]
- Ohio Democratic U.S. Representative Dennis Kucinich, a former two-time presidential candidate, delivered a speech on the House floor denouncing the bailout as "too much money, in too short of a time, going to too few people, while too many questions remain unanswered," and asking, "Is this the U.S. Congress or the board of directors at Goldman Sachs?"[90]
- Democratic opponents of the bailout include Oregon U.S. Representative Peter DeFazio, who called for a modified Tobin tax on stock transactions to pay for any bailout,[91] and California Congressman Brad Sherman, who compared the bailout to a ransom demand for "$700 billion in unmarked bills".[92]
- Republican opponents of the bailout include Texas U.S. Representative Ted Poe, who gave a speech on the House floor comparing the dire economic warnings of the bailout's proponents to the Y2K scare,[93] and Michael C. Burgess, who accused the House leadership of declaring "martial law" to pass the legislation without debate.[94]
- After negotiations, bipartisan groups of Congressional leaders were willing to support the highly revised plan. Despite the leaders' support, the rest of the House of Representatives did not follow their lead.
- In a *Wall Street Journal* opinion piece, Senator Hillary Clinton has advocated addressing the rate of mortgage defaults and foreclosures that ignited this crisis, not just bailing out Wall Street firms: "If we do not take action to address the crisis facing borrowers, we'll never solve the crisis facing lenders." She has proposed a new Home Owners' Loan Corporation (HOLC), similar to that used after the Depression, which was launched in 1933. The new HOLC would administer a national program to help homeowners refinance their mortgages. She is also calling for a moratorium on foreclosures and freezing of rate hikes in adjustable rate mortgages.[95]
- Libertarian presidential candidate Bob Barr has been one of the most outspoken opponents of the bailout. He spoke out against it while it was making its way through Congress. He took his message to the airwaves and explained the government should not toss around taxpayer dollars so easily and that government should decrease regulation and privatize Fannie Mae and Freddie Mac.[96]

Financiers

- Investor Warren Buffett says he could put in $10B plus $90B nonrecourse debt; that is, without having to repay beyond $10B if mortgages did not repay. (This is 10 to 1 leverage, 10 times upside with 1 times downside.) He also said that the government should pay market price, which may be below the carry value.[97] Buffett says "I would think they might insist on the directors of the institutions that participate in this program waiving all director's fees for a couple of years. They should, maybe, eliminate bonuses." Buffett says "...if someone wants to sell a hundred billion of these instruments to the Treasury, let them sell two or three billion in the market and then have the Treasury match that. ... . You don't want the Treasury to be a patsy."[98] Mr.

Buffett's company owns financial companies which will benefit directly or indirectly, including his investment in Goldman Sachs.[99]

- Alan Greenspan, former Chairman of the Federal Reserve, endorsed Paulson's plan on September 19.[100]
- Investor George Soros is opposed to the original Paulson plan – "Mr Paulson's proposal to purchase distressed mortgage-related securities poses a classic problem of asymmetric information. The securities are hard to value but the sellers know more about them than the buyer: in any auction process the Treasury would end up with the dregs. The proposal is also rife with latent conflict of interest issues. Unless the Treasury overpays for the securities, the scheme would not bring relief." – but calls Barack Obama's list of conditions for the plan "the right principles". [101]
- Investor Carl Icahn described the bailout as "crazy and inflationary hell".[100]
- Investor Jim Rogers called the plan "astonishing, devastating, and very harmful for America".[102]
- Tim McCormack (Chief Investment Officer, Alpha Titans, Santa Barbara, CA) has diagnosed the underlying problem as a failure of regulatory oversight, which allowed firms to overly leverage mortgage-backed assets. He criticizes the Paulson Plan as a giveaway.[103] He has also written that fears of the domino effect, rather than illiquidity, are the cause of the credit freeze. [104]

Economists

- In an open letter sent to Congress on September 24, over 100 university economists expressed "great concern for the plan proposed by Treasury Secretary Paulson". The letter, endorsed by 231 economists at American universities within a few days, has been described as "the emerging consensus from academic economists".[105] Its authors described three "fatal pitfalls" they perceived in the plan as it was initially proposed:

1) Its fairness. The plan is a subsidy to investors at taxpayers' expense. Investors who took risks to earn profits must also bear the losses. [...] The government can ensure a well-functioning financial industry [...] without bailing out particular investors and institutions whose choices proved unwise.

2) Its ambiguity. Neither the mission of the new agency nor its oversight are clear. If taxpayers are to buy illiquid and opaque assets from troubled sellers, the terms, occasions, and methods of such purchases must be crystal clear ahead of time and carefully monitored afterwards.

3) Its long-term effects. If the plan is enacted, its effects will be with us for a generation. For all their recent troubles, America's dynamic and innovative private capital markets have brought the nation unparalleled prosperity. Fundamentally weakening those markets in order to calm short-run disruptions is desperately short-sighted.[106]

- Nobel Prize-winning economist Joseph Stiglitz strongly criticizes the bill in an article written for *The Nation*.[107]
- The first half of the bailout money was primarily used to buy preferred stock in banks instead of troubled mortgage assets. This has led some economist to argue that buying preferred stock will be far less effective in getting banks to lend efficiently than buying common stock.[108][109]
- Economist, *New York Times* columnist and Nobel laureate Paul Krugman recommended that, instead of purchasing the assets, equity capital could be provided to the banks directly in exchange for preferred stock. This would strengthen the financial position of the banks, encouraging them to lend. Dividends would be paid to the government on the preferred shares. This would be similar to what happened during the S&L crisis and with the GSE bailout. This avoids the valuation questions involved in the direct purchase of MBS.[110] This is an approach based on the 1990s Swedish banking rescue.[111]

Journalists

- *The Economist* magazine said that although "Mr Paulson's plan is not perfect ... it is good enough" and that "Congress should pass it—and soon."[112]
- "The deal proposed by Paulson is nothing short of outrageous. It includes no oversight of his own closed-door operations. It merely gives congressional blessing and funding to what he has already been doing, ad hoc." - Robert Kuttner[113]
- Journalist Rosalind Resnick favors a hypothetical scenario in which "consumers and businesses would be able to borrow at the fed funds rate at 2 percent, just like the big banks do. This means that every cash-strapped homeowner would be able to refinance his mortgage and cut his payments in half, saving thousands of homes from foreclosure. Consumers could also refinance their credit card balances, auto loans and other debt at interest rates they can afford" and that this plan "would cost U.S. taxpayers absolutely nothing."[114]
- Journalist Michael Hudson says "It is bad enough for the government to buy $700 billion of bad bank investments at prices that no private-sector investor has been willing to approach. This itself is an undeserved giveaway to the financial institutions that caused the problem..."[115]

# Alternative proposals

Suggested alternative approaches to address the issues underlying the financial crisis include: mortgage assistance proposals try to increase the value of the asset base while limiting the disruption of foreclosure; bank recapitalization through equity investment by the government; asset liquidity approaches to engage market mechanisms for valuing troubled assets; and financial market reforms promoting transparency and conservatism to restore trust by market investors.

## Mortgage assistance

- Conservative Republican Representatives have offered a mortgage insurance plan as an alternative to the bailout.[116][117] There has been speculation that U.S. Senator John McCain may support this plan[118] but this has not been confirmed.
- Arnold Kling, a former senior economist at Freddie Mac, defines "home borrowers" as "people who are nominally owners but who put down so little money for their purchase that they are better described as living in borrowed homes." He thinks the plan should be to replace home borrowing with renting or home ownership.[119]
- Senator Hillary Clinton has proposed a new Home Owners' Loan Corporation (HOLC), similar to that used after the Depression, which was launched in 1933. The new HOLC would administer a national program to help homeowners refinance their mortgages. She is also calling for a moratorium on foreclosures and freezing of rate hikes in adjustable rate mortgages.[95]
- Jonathan Koppell, Associate Professor of Politics and Management at the Yale School of Management, recommends assisting homeowners by lowering interest rates on loans in default. The money spent would be repaid from profits when the homes eventually sell after the housing market has recovered.[120][121]

## Bank recapitalization

- A ten-point plan by New York University economist Nouriel Roubini goes beyond a Home Owners' Loan Corporation to include recreating a combination of a Resolution Trust Corporation, and a Reconstruction Finance Corporation.[122] Roubini has advocated bank recapitalization (by providing cash in exchange for preferred shares) and suspending all dividend payments.[123]

- Economist Paul Krugman recommended equity investments in the banks, an approach similar to what happened during the S&L crisis, the GSE bailout, and the 1990s Swedish banking rescue. This avoids the valuation questions involved in the direct purchase of MBS.[110][111]
- The first half of the bailout money was primarily used to buy preferred stock in banks instead of troubled mortgage assets. This has led some economist to argue that buying preferred stock will be far less effective than buying common stock.[108][109]
- Luigi Zingales, Professor of Entrepreneurship and Finance at the University of Chicago, has proposed a special chapter of the bankruptcy code to convert banks' debt to equity which would improve capital adequacy ratios and enable a return to lending.[124]

- Janet Tavakoli, a financial consultant and a former adjunct professor of derivatives at the University of Chicago's Graduate School of Business, criticizes the bailout because in her view it hides problems and continues price uncertainty. She also advocates forced restructuring, with a combination of debt forgiveness and debt for equity swaps, rather than a bailout.[125][126]

## Asset liquidity

- Christopher Ricciardi, former Merrill Lynch banker, wrote a letter to Treasury Secretary Henry M. Paulson Jr. proposing alternatively that the government should be backing some troubled assets to encourage private investors to purchase them — as opposed to the direct purchase of troubled assets from financial institutions.[127]

- Investor Warren Buffett believes the government should pay market price for the assets rather than an artificially high hold-to-maturity price. The market price would be determined by selling a portion of the assets to private investors.[128] Some of the letters published in the September 27 *Denver Post* suggest taking similar steps to reduce the taxpayers' risk and commitment.[62]

## Financial market reform

- Dominique Strauss-Kahn, Managing Director of the International Monetary Fund, has recommended three near-term actions to assist banks: provision of liquidity, purchase of distressed assets, and recapitalization. In addition, he argues for addressing the structural issues with more prudential regulation, better accounting rules, and more transparency.[129]

- Commentator Karl Denninger, author of The Market Ticker (http://market-ticker.denninger.net/), has proposed a plan to restore trust in the financial system starting with (1) balance sheet transparency (2) an exchange for OTC derivatives, and (3) limiting leverage to 12:1. Transparency, because it increases the information available to investors, allows more accurate risk assessment and derivative pricing. An exchange increases the liquidity of derivatives. A return to historical leverage limits (e.g. 12:1) helps identify those institutions that are over-leveraged while rewarding those more prudent. He argues that addressing the problem with these reforms in place makes the process of restructuring failing firms more fair and orderly, and far

less costly.[130][131]

# Legislative history

Over the weekend (September 27-28), Congress continued to develop the proposal. That next Monday, the House put the resulting effort, the Emergency Economic Stabilization Act of 2008, to a vote. It did not pass. US stock markets dropped 8 percent, the largest percentage drop since Black Monday in 1987.

Congressional leaders, including both presidential candidates, started working with the Bush Administration and the Treasury department on key negotiation points as they worked to finalize the plan. Key items under discussion included:[132][133]

- Additional foreclosure avoidance and homeowner assistance
- Executive pay limits
- Government equity interests in firms participating in program, to provide additional taxpayer protection
- Judicial review, Congressional oversight and right to audit
- Structure and authority of the entities that will manage the program

## Political negotiations

After the President's announcement of the bailout plan on Wednesday, Sept. 24, there were negotiations on altering the proposal, and declarations of fundamental understanding between the White House and the congressional leaders having been reached were made already on Thursday morning. This apparent eagerness of the Democratic Party politicians to reach an early accommodation with the Bush administration created (in light of persistent reports of popular opposition to the bailout program) a propaganda vacuum and opportunity, into which the House Republicans quickly moved, raising objections, refusing to support the deal and presenting themselves as defenders of the ordinary taxpayer's interests. The negotiations then continued throughout Friday, when some politicians predicted a conclusion by the end of the weekend, while others indicated willingness to take their time and work on the package until it's ready.[134]

## First House vote, September 29

Just after midnight Sunday, September 28, leaders of the Senate and House, along with Treasury Secretary Paulson, announced a tentative deal had been reached to permit the government purchase of up to $700 billion in mortgage backed securities to provide liquidity to the security holders, and to stabilize U.S. financial firms and markets. The bill was made final later that Monday morning.[4][135] A debate and vote was scheduled for the House for Monday, September 29, to be followed by a Senate debate on Wednesday.[136] In an early morning news conference, on Monday September 29, President George W. Bush expressed confidence that the bill would pass Congress, and that it would provide relief to the U.S. economy. A number of House Republicans remained opposed to the deal and intended to vote against it.[137][138][139]

That same day, the legislation for the bailout was put before the United States House of Representatives. The motion voted on was an amendment to HR3997. The amendment was not accepted by the roll call vote of 228-205, with one not voting. Democrats voted 140 to 95 in favor of the legislation, while Republicans voted 133 to 65 against it.[140][141][142] During the legislative session, at the conclusion of

the vote, the presiding chair declared the measure, HR3997, to be unfinished business. The bill is subject to additional legislative action.[143]

House Speaker Nancy Pelosi said at a press conference after the vote: "The legislation has failed. The crisis has not gone away. We must continue to work in a bipartisan manner."[144] Senate Banking Committee Chairman Christopher Dodd, a Connecticut Democrat, appearing at a joint press conference with Senator Judd Gregg, a New Hampshire Republican, said a bailout plan could still pass Congress. Dodd said: "We don't intend to leave here without the job being done. While it may take another few days, we're confident that can happen."[140]

### Market reaction to September 29 vote

Following the House vote, the Dow Jones Industrial Average dropped over 777 points in a single day, its largest single-day point drop ever.[145] The $1.2 trillion loss in market value received much media attention, although it still does not rank among the index's ten largest drops in percentage terms. The S & P lost 8.8%, its seventh worst day in percentage terms and its worst day since Black Monday in 1987. The NASDAQ composite also had its worst day since Black Monday, losing 9.1% in its third worst day ever. The TED spread, the difference between what banks charge each other for a three-month loan and what the Treasury charges, hit a 26-year high of 3.58%; a higher rate for inter bank loans than Treasury loans is a sign that banks fear that their fellow banks won't be able to pay off their debts. Meanwhile, the price of U.S. light crude oil for November delivery fell $10.52 to $96.37 a barrel, its second largest one-day drop ever, on expectations of an economic slowdown reducing oil consumption and demand.[146] The Dow Jones industrial average recovered 485 points or about 62% of the entire loss the very next day.[147]

Markets which had expected the bill to pass and had moved on to debating whether it would be sufficient were already skittish after news that Wachovia Bank was being bought out by Citigroup to avoid collapse. The events were compounded by news from Europe that Dutch-Belgian Fortis Bank was given a $16.4 billion lifeline to avoid collapse, failing British bank Bradford & Bingley was nationalized, and Germany extended banking and real estate giant Hypo Real Estate billions to ensure its survival.[146]

Later in October, after the bill had been passed, the Dow Jones Industrial Average would drop by more in percentage terms, and market volatility remained at historically high levels, as measured by the VIX.

## Senate vote October 1


74 yea – 21 nay

On Wednesday evening, October 1, 2008, the Senate debated and voted on a revised version of the Emergency Economic Stabilization Act of 2008 (EESA 2008). The legislation was framed as an amendment to HR1424, substituting the entire bill with the newly revised text of the EESA 2008.[7][9][148] The amendment was approved by a 74-25 vote, and the entire bill was also passed by the same margin, 74-25.[149][150] Only cancer-stricken Senator Ted Kennedy did not vote. Under the legislative rule for the bill, sixty votes were required to approve the amendment and the bill.[9][147][148] A House leader accused the Senate of legislating "by blunt force" without public-consent.[151] Senate has also been accused of "sweetening" the bailout to force its passage by the opposing House.[17][152]

### Second House vote, October 3

263 yea – 171 nay

The revised HR1424 was received from the Senate by the House, and on October 3, it voted 263-171 to enact the bill into law.[6][12]

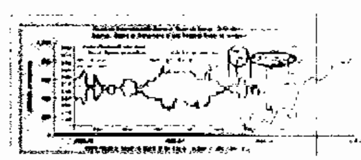
President Bush signed the bill into law within hours of its enactment, creating a $700 billion dollar Treasury fund to purchase failing bank assets.[13]

The revised plan left the $700 billion bailout intact and appended a stalled tax bill.[147] The law has three major divisions, Division A: the Emergency Economic Stabilization Act of 2008; Division B: Energy Improvement and Extension Act of 2008, and Division C: the Tax Extenders and Alternative Minimum Tax Relief Act of 2008.[6] The tax part of the law has provisions that will have a net expenditure of $100 billion over 10 years. It had been stalled due to a disagreement between Democrats that did not want to increase spending without a corresponding increase in taxes and Republicans, who were adamantly opposed to any tax increases.

## Key items in the legislation

On October 3, 2008, the Emergency Economic Stabilization Act became law with the signing of Public Law 110-343, which included the act.[153] Below is a list of key items and how the legislation deals with them.

### Interest on bank deposits held by the Federal Reserve



Reserve balances began increasing at the beginning of September, 2008, just after the Democratic and Republican national conventions, and just before the Wall Street meltdown and the presidential debates.

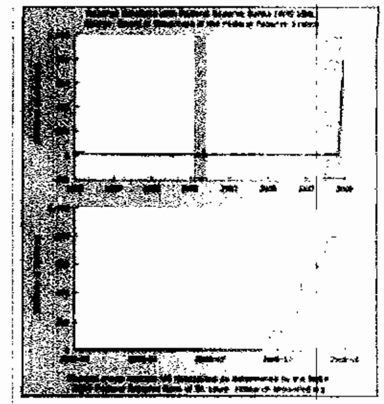
Although the original bill proposed as late as September 20 contained no such provision,[25] Section 128 of the Act allowed the Federal Reserve System (the Fed) to begin paying banks a high interest rate on their deposits held for reserve requirements. It reads:

> **SEC. 128. ACCELERATION OF EFFECTIVE DATE.**
>
> Section 203 of the Financial Services Regulatory Relief Act of 2006 (http://www.govtrack.us/congress/billtext.xpd?bill=s109-2856) (12 U.S.C. 461 (http://www.law.cornell.edu/uscode/12/461.html)) is amended by striking `October 1, 2011' and inserting `October 1, 2008'.

The Fed announced that it would begin paying such increased interest on both reserve and excess reserve balances on October 6, 2008.[154] Banks immediately increased the amount of their money on deposit with the Fed, up from about $10 billion total at the end of August, 2008, to $880 billion by the end of the second week of January, 2009.[155][156] In comparison, the increase in reserve balances reached only $65 billion after September 11, 2001 before falling back to normal levels within a month. The U.S. Treasury Department explained the changes, saying:

> The Federal Reserve will continue to take a leadership role with respect to liquidity in our markets. It is committed to using all of the tools at its disposal to provide the increased liquidity that is now required

> for the effective functioning of financial markets. In this regard, the authority to pay interest on reserves that was provided by EESA is essential, because it allows the Federal Reserve to expand its balance sheet as necessary to support financial stability while conducting a monetary policy that promotes the Federal Reserve's macroeconomic objectives of maximum employment and stable prices. The Federal Reserve and the Treasury Department are consulting with market participants on ways to provide additional support for term unsecured funding markets.[157]



Reserve balances with U.S. Federal Reserve Banks, 1995-2008 and 2008, in billions of U.S. dollars

Reactions to the change were mixed, with banks generally approving of their new ability to earn high interest without risk on funds that they would otherwise need to use to extend credit in order to make a profit for their shareholders, while those involved in the commercial paper markets, the primary and secondary sectors of the goods and services economy, shipping, and others depending on the liquidity of credit from banks were more skeptical of the further pressure against credit availability in the midst of the ongoing credit liquidity crisis.[158][159]

The day after the change was announced, on October 7, Fed Chairman Ben Bernanke expressed some confusion about it, saying, "We're not quite sure what we have to pay in order to get the market rate, which includes some credit risk, up to the target. We're going to experiment with this and try to find what the right spread is."[160] The Fed adjusted the rate on October 22, after the initial rate they set October 6 failed to keep the benchmark U.S. overnight interest rate close to their policy target,[160][161] and again on November 5 for the same reason.[162] Beginning December 18, the Fed directly established interest rates paid on required reserve balances and excess balances instead of specifying them with a formula based on the target federal funds rate.[163][164][165]

The government issued $400 billion of short-term debt intended to help replace the $1.8 trillion commercial paper market which was wiped out by the change,[166] (exacerbated by money market funds' sudden refusal to support commercial paper as well) but the world economy began to deflate as international shipping, dependent on commercial paper, slowed in some regions to a few percent of levels prior to the change.[167][168] The FDIC announced a new program on October 14, under which newly issued senior unsecured debt issued on or before June 30, 2009, would be fully protected in the event the issuing institution subsequently fails, or its holding company files for bankruptcy.[169] The FDIC program is expected to cover about $1.4 trillion of bank debt.[170]

The Congressional Budget Office estimated that payment of interest on reserve balances would cost the American taxpayers about one tenth of the present 0.25% interest rate on $800 billion in deposits:

**Estimated Budgetary Effects**[171]

| Year | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Millions of dollars** | **0** | **-192** | **-192** | **-202** | **-212** | **-221** | **-242** | **-253** | **-266** | **-293** | **-308** |
| (Negative numbers represent expenditures; losses in revenue not included.) | | | | | | | | | | | |

0.25% simple interest on $800 billion is $2 billion, not $202 million as shown for 2009. But those expenditures pale in comparison to the lost tax revenues worldwide resulting from decreasing economic activity due to damage to the short-term commercial paper and associated credit markets.

On January 7, 2009, the Federal Open Market Committee decided that, "the size of the balance sheet and level of excess reserves would need to be reduced."[172] On January 13, Ben Bernanke said, "In principle, the interest rate the Fed pays on bank reserves should set a floor on the overnight interest rate, as banks should be unwilling to lend reserves at a rate lower than they can receive from the Fed. In practice, the federal funds rate has fallen somewhat below the interest rate on reserves in recent months, reflecting the very high volume of excess reserves, the inexperience of banks with the new regime, and other factors. However, as excess reserves decline, financial conditions normalize, and banks adapt to the new regime, we expect the interest rate paid on reserves to become an effective instrument for controlling the federal funds rate."[173] The same day, *Financial Week* said Mr. Bernanke admitted that a huge increase in banks' excess reserves is stifling the Fed's monetary policy moves and its efforts to revive private sector lending.[174]

On January 15, Chicago Fed president and Federal Open Market Committee member Charles Evans said, "once the economy recovers and financial conditions stabilize, the Fed will return to its traditional focus on the federal funds rate. It also will have to scale back the use of emergency lending programs and reduce the size of the balance sheet and level of excess reserves. 'Some of this scaling back will occur naturally as market conditions improve on account of how these programs have been designed. Still, financial market participants need to be prepared for the eventual dismantling of the facilities that have been put in place during the financial turmoil,' he said."[175]

At the end of January, 2009, excess reserve balances at the Fed stood at $793 billion[176] but less than two weeks later on February 11, total reserve balances had fallen to $603 billion. On April 1, reserve balances had again increased to $806 billion.[177]

## Management of the Troubled Asset Relief Program

The bill authorizes the Secretary of the Treasury to establish the Troubled Assets Relief Program to purchase troubled assets from financial institutions. The Office of Financial Stability is created within the Treasury Department as the agency through which the Secretary will run the program. The Secretary is required to consult with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the Secretary of Housing and Urban Development when running the program.[178][179]

### Funding

The bill authorizes $700 billion for the program. The Treasury Secretary has immediate access to the first $250 billion. Following that, an additional $100 billion can be authorized by the President. For the last $350 billion, the President must notify Congress of the intention to grant the additional funding to the Treasury; Congress then has 15 days to pass a resolution disallowing the authority. If Congress fails to pass a resolution opposing the funding within 15 days, or if the resolution passes, but is vetoed by the President, and Congress does not have enough votes to override the veto, the Treasury will receive the final $350 billion.[180][181]

### Government equity interests in participating firms

The Treasury Secretary is required to obtain a financial warrant guaranteeing the right to purchase non-voting stock or, if the company is unable to issue a warrant, senior debt from any firm participating in

the program. The Secretary is allowed to make a de minimis exception to the rule, but that exception may not exceed $100 million.[182][183]

### Executive pay limits

If the Treasury purchases assets directly from a company, and also receives a meaningful equity or debt position in that company, the company is not allowed to offer incentives that encourage "unnecessary and excessive risks" to its senior executives (that is, the top five executives).[184] Also, the company is prohibited from making golden parachute payments to a senior executive. Both of these prohibitions expire when the Treasury no longer holds an equity or debt position in that company. The company also is given "clawback" permission; that is, the opportunity to recover senior executive bonus or incentive pay based on earnings, gains, or other data that proves to be inaccurate.[185][186]

If the Treasury purchases assets via auction, and that purchase exceeds $300 million, any new employment contract for a senior officer may not include a golden parachute provision in the case of involuntary termination, bankruptcy filing, insolvency, or receivership. This prohibition only applies to future contracts; golden parachutes already in place will remain unaffected.[185][186]

In either scenario, no limits are placed on executive salary, and existing golden parachutes will not be altered.[187]

### Foreclosure avoidance and homeowner assistance

For mortgages involved in assets purchased by the Treasury Department, the Treasury Secretary is required to (1) implement a plan that seeks to maximize assistance for homeowners, and (2) encourage the servicers of the underlying mortgages to take advantage of the HOPE for Homeowners Program of the National Housing Act or other available programs to minimize foreclosures.[182] Furthermore, the Secretary is allowed to use loan guarantees and credit enhancements to encourage loan modifications to avert foreclosure.[188] The bill does not provide a mechanism to change the terms of a mortgage without the consent of any company holding a stake in that mortgage.[189]

The Treasury did not use this provision. "The primary purpose of the bill was to protect our financial system from collapse," Secretary Henry Paulson told the House Financial Services Committee, "The rescue package was not intended to be an economic stimulus or an economic recovery package."[190]

### Judicial review

The bill establishes that actions taken by the Treasury Secretary regarding this program are subject to judicial review,[182][191] reversing the request for immunity made in the original Paulson proposal.[192]

### Oversight

*See also: Oversight of the Troubled Assets Relief Program*

Several oversight mechanisms are established by the bill. Contractors were also used to help manage the TARP funds.[193][194]

Financial Stability Oversight Board

The Financial Stability Oversight Board is created to review and make recommendations regarding the Treasury's actions.[195][196] The members of the board are:

- Chairman of the Board of the Federal Reserve
- Secretary of the Treasury
- Director of the Federal Housing Finance Agency
- Chairman of the Securities and Exchange Commission
- Secretary of the Department of Housing and Urban Development

Congressional Oversight Panel

A Congressional Oversight Panel is created by the bill to review the state of the markets, current regulatory system, and the Treasury Department's management of the Troubled Asset Relief Program. The panel is required to report their findings to Congress every 30 days, counting from the first asset purchase made under the program. The panel must also submit a special report to Congress about regulatory reform on or before January 20, 2009.[195][197]

The panel consists of five outside experts appointed as follows:

- One member chosen by the Speaker of the House
- One member chosen by the minority leader of the House
- One member chosen by the majority leader of the Senate
- One member chosen by the minority leader of the Senate
- One member chosen by the Speaker of the House and the majority leader of the Senate, following consultation with the minority leaders of Congress

Comptroller General oversight requirement

The Comptroller General (director of the Government Accountability Office) is required to monitor the performance of the program, and report findings to Congress every 60 days. The Comptroller General is also required to audit the program annually. The bill grants the Comptroller General access to all information, records, reports, data, etc. belonging to or in use by the program.[198][199]

Office of the Special Inspector General

The bill creates the Office of the Special Inspector General for the Troubled Asset Relief Program, appointed by the President and confirmed by the Senate. The Special Inspector General's purpose is to monitor, audit and investigate the activities of the Treasury in the administration of the program, and report findings to Congress every quarter.[198][200]

## FDIC insurance

From the date of enactment of the bill (October 3, 2008) until December 31, 2009, the amount of deposit insurance provided by the FDIC is increased from $100,000 to $250,000.[195][201]

## Budget-related provisions

Title II sets out guidelines for consultation and reporting between the Treasury Secretary, the Office of

Management and Budget, and the Congressional Budget Office.

### Tax provisions

The bill makes the following changes to tax law.

- Qualified financial institutions may count losses on FNMA and FHLMC preferred stock against ordinary income, rather than capital gain income.
- New limitations are added on deductibility of executive compensation by corporations participating in the bailout.
- The mortgage debt forgiveness provision of the Mortgage Forgiveness Debt Relief Act of 2007 is extended by three years, so that it applies to debts forgiven through the year 2012.
- Extend the expiration date of the section 41 Research & Development Tax Credit from December 31, 2007 to December 31, 2009; also, increase the Alternative Simplified Credit percentage from 12% to 14%.

## Administration of the law

CAMELS ratings are being used by the United States government to help it decide which banks to provide special help for and which to not as part of its capitalization program authorized by the Emergency Economic Stabilization Act of 2008. [202]

The New York Times states: "The criteria being used to choose who gets money appears to be setting the stage for consolidation in the industry by favoring those most likely to survive" because the criteria appears to favor the financially best off banks and banks too big to let fail. Some lawmakers are upset that the capitalization program will end up culling banks in their districts.[202]

Known aspects of the capitalization program "suggest that the government may be loosely defining what constitutes healthy institutions. [... Banks] that have been profitable over the last year are the most likely to receive capital. Banks that have lost money over the last year, however, must pass additional tests. [...] They are also asking if a bank has enough capital and reserves to withstand severe losses to its construction loan portfolio, nonperforming loans and other troubled assets."[202] Some banks received capital with the understanding the banks would try to find a merger partner. To receive capital under the program banks are also "required to provide a specific business plan for the next two or three years and explain how they plan to deploy the capital."[202]

## Effects on national debt

The United States annual budget deficit for fiscal year 2009 may surpass $1 trillion. The original Paulson proposal would lift the United States federal debt ceiling by $700 billion, to $11.3 trillion from the current $10.6 trillion.[203]

## Other information

A review of investor presentations and conference calls by executives of some two dozen US-based banks by the New York Times found that "few [banks] cited lending as a priority. An overwhelming majority saw the bailout program as a no-strings-attached windfall that could be used to pay down debt, acquire other businesses or invest for the future." [204]

## See also

- 2008 United Kingdom bank rescue package
- Financial crisis of 2007–2008
- Economic crisis of 2008
- January 2008 stock market downturn
- List of entities involved in 2007-2008 financial crises
- Bear Stearns subprime mortgage hedge fund crisis
- Federal takeover of Fannie Mae and Freddie Mac
- Investment tax credit
- Bankruptcy of Lehman Brothers
- Federal Reserve bailout of AIG
- Global financial crisis of September–October 2008
- Bankruptcy of Washington Mutual
- Savings and Loan crisis
- Subprime mortgage crisis
- Subprime crisis impact timeline
- Subprime lending
- Mortgage backed securities
- United States housing market correction
- Bailout
- Lemon socialism
- Socialism for the rich and capitalism for the poor
- Corporate welfare
- Cronyism
- The world housing bubble
- Indian property bubble
- Irish property bubble
- Japanese asset price bubble
- Spanish property bubble
- United States housing bubble
- United Kingdom housing bubble
- Swedish banking rescue
- Automotive industry crisis of 2008

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